

UNITED STATES DISTRICT COURT

for the
WESTERN DISTRICT OF OKLAHOMA**FILED**

JUN 12 2019

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY ac DEPUTYROBERT ALLEN CUSTARD

Petitioner

v.

Case No. CIV-19-540-C

(Supplied by Clerk of Court)

JOSEPH ALLBAUGH

Respondent

(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: ROBERT ALLEN CUSTARD
- (b) Other names you have used: N/A
2. Place of confinement:
 - (a) Name of institution: CIMARRON (CORE-CIVIC) PRISON - FOR PROFITEERING
 - (b) Address: 3200 - SOUTH KINGS HIGHWAY, CUSHING, OKLA. 74023
 - (c) Your identification number: OKLA. DOC ID # 194351
3. Are you currently being held on orders by:

☐ Federal authorities ☒ State authorities ☐ Other - explain:
4. Are you currently:

☐ A pretrial detainee (waiting for trial on criminal charges)

☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

 - (a) Name and location of court that sentenced you: STEPHENS COUNTY DISTRICT COURT
101 - SOUTH 11TH STREET, DUNCAN, OKLA. 73533
 - (b) Docket number of criminal case: 1992 - CRF - 209
 - (c) Date of sentencing: OCTOBER 25, 1993.

☐ Being held on an immigration charge

☐ Other (explain):

Decision or Action You Are Challenging

5. What are you challenging in this petition:

- ☒ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)
- ☐ Pretrial detention
- ☐ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (explain):

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: PAYNE COUNTY OKLA DISTRICT COURT HABEAS CORPUS # HC-18-458; STEPHENS CO. # 92-CRF-209; OKLAHOMA DEPT. OF CORRECTIONS.
- (b) Docket number, case number, or opinion number: STEPHENS COUNTY # 1992-CRF-209
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
OKLA DOC - REFUSING TO CREDIT (ID), FOR OVER-SERVED 13 YEARS 5 MONTHS OF VACATED SENTENCE IN USDC/B. GUN RAO # 93-CR-50
- (d) Date of the decision or action: MAY 31, 2004 — OCTOBER 18, 2018

Your Earlier Challenges of the Decision or Action

7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: OKLAHOMA DEPT OF CORRECTIONS, 3400 NORTH MLK, OKC, OK. 73111
- (2) Date of filing: ON / ABOUT JANUARY - APRIL, 2018; See App
- (3) Docket number, case number, or opinion number: (a) PAYNE CO. OKLA # HC-18-458 (b) OKLA G. Cem Appns # HC. 2019. 271
- (4) Result: ALL DENIED / DISMISSED
- (5) Date of result: 5/17/19 - 5/10/19
- (6) Issues raised: VIOLATION OF DUE PROCESS, ABUS OF DISCRETION, FAILURE TO APPEAL AND FORFEITURE, 296 F.3d 947 (10th Cir 2005); FLOYD V. OKLA, 540 P.2d 1195; TUCKER, 357 F.3d 115; AND DOUBLE JEOPARDY / MULTIPLE PUNISHMENTS FOR SAME OFFENSE; CRUEL AND UNUSUAL PUNISHMENTS

(b) If you answered "No," explain why you did not appeal: N/A

8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☒ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: PAYNE COUNTY OKLA. DISTRICT COURT, 606 SOUTH HUSBAND ST, #206, STILLWATER, OK 74074

(2) Date of filing: SEPT 18, 2018

(3) Docket number, case number, or opinion number: DJ. 208-458

(4) Result: DENIED

(5) Date of result: ON/ABT. FEBRUARY, 2019

(6) Issues raised: SAME, ID.

PLEASE OKLAHOMA COURT OF CRIMINAL APPEALS, 2100 N. LINCOLN, OKC, OK 73105 - " " " " " # HC-2019-271
FILED ON/ABT. 4/15/19

(b) If you answered "No," explain why you did not file a second appeal: N/A

9. Third appeal

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☒ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: OKLAHOMA SUPREME COURT, OKLA JUDICIAL CENTER, #24, 2100 N. LINCOLN AVE., OKC, OK. 73105

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: # 117852

(4) Result: REMAND TO HEAR -

(5) Date of result: GRABENT 5/15/19

(6) Issues raised: ABUSE OF DISCRETION; MULTIPLE PUNISHMENTS FOR SAME OFFENSES/DOUBLE

JEOPARDY, DENIAL DUE PROCESS OF LAW, INTRALIA ABUSE, CRUEL & UNUSUAL PUNISHMENTS.

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

PLEASE SEE ALSO HAWKINS, 291 F.3d 658 (10th Cir 2004); BARESS, 290 F.3d 48 (1st Cir) "STATE EXHAUSTION REQUIREMENT SATISFIED BECAUSE PETITIONER APPEAL TO CRIMINAL COURT OF APPEALS AND STATE SUPREME COURT MINIMALLY SUFFICIENT TO APPRISE THOSE COURTS OF FEDERAL CONSTITUTIONAL DIMENSIONS."

(b) If you answered "No," explain why you did not file a third appeal: I DO NOT HAVE TO REFILE REVIEW & STATE APPELLATE LEAVES - ALL 2 HAVE TO DO IS GIVE STATE APPELLATE COURTS THE OPPORTUNITY TO REVIEW.

(4th App'n): OKLA SUP CT, # 117852 - REQUEST TO REVIEW - SEE: DYE, 126 S. Ct 5, 82 (2005) "JUST BECAUSE STATE APP. GTS FAILED TO MENTION FEDERAL CLAIMS DOES NOT MEAN WERE NOT PRESENTED." NOTE: ALL OF PETS OKLA APP & OKLA S. CT HABEAS STATED "FEDERAL" & "U.S." CONSTITUTIONALLY GUARANTEED RIGHTS

10. ~~Motion under 28 U.S.C. § 2255~~

In this petition, are you challenging the validity of your conviction or sentence as imposed?

~~Yes~~

☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

~~Yes~~

☒ No

If "Yes," provide:

(1) Name of court: N/A

(2) Case number: n

(3) Date of filing: n

(4) Result: n

(5) Date of result: n

(6) Issues raised: n

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

~~Yes~~

☒ No

If "Yes," provide:

(1) Name of court: N/A

(2) Case number: n

(3) Date of filing: n

(4) Result: n

(5) Date of result: n

(6) Issues raised: n

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

PLEASE SEE ALSO HAWKINS, 291 F.3d 658 (10th Cir 2004); BARRETT, 290 F.3d 481 (1st Cir) "SOME EXHAUSTED REQUIREMENT SATISFIED BECAUSE PETITIONER APPEAL TO CRIMINAL COURT OF APPEALS AND STATE SUPREME COURT MINIMALLY SUFFICIENT TO APPRISE THOSE COURTS OF FEDERAL CONSTITUTIONAL DIMENSIONS."

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: IT IS A STATE CASE/ISSUE FIRST OF ALL - AND I AM

CHALLENGING

THE IMPLEMENTATION (BEGINS DATE) AND SENTENCE SERVICE

CALCULATIONS ONLY IN THIS 28 USC § 2241, IE: THE STATUTES GO # 1992-CR-209 JUDGMENT AND SENTENCE (EXHIBIT D1) PLAINLY ENDED UP (AFTER VACATION OF USDC/D. GO # 93-CR-50 SENTENCE) STATING T-W-O DIFFERENT "CS" SENTENCE BEGINS DATES - "COMMON SENSE AND FUNDAMENTAL FAIRNESS REQUIRES THAT THE EARLIEST (5/31/2004) BEGINS DATE MUST CONTROL THE OKLAHOMA SENTENCE BEGINS DATE."

11. ~~Appeals of immigration proceedings~~

Does this case concern immigration proceedings?

☒ Yes

☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: N/A

- (b) Date of the removal or reinstatement order: n

- (c) Did you file an appeal with the Board of Immigration Appeals?

☒ Yes

☒ No

If "Yes," provide:

- (1) Date of filing: N/A

- (2) Case number: n

- (3) Result: n

- (4) Date of result: n

- (5) Issues raised: n

- (d) Did you appeal the decision to the United States Court of Appeals?

☒ Yes

☒ No

If "Yes," provide:

- (1) Name of court: N/A

- (2) Date of filing: n

- (3) Case number: n

- (4) Result: N/A | ONE QUICK TIDING AS TO EXHAUSTION OF STATE REMEDIES - EVERY
 (5) Date of result: " | THING FILLS IN STATE COURTS ON THIS HC STATES REPEATEDLY "FEDERAL"
 (6) Issues raised: " | "US" NOTICING ALL OKLA STATE COURTS OF THE FEDERAL CONSTITUTION

RAMIFICATIONS AT HAND IN THIS CASE & MATTER ← ADDITIONALLY, REC SAME → PETITIONER RESPECTFULLY POINTS TO
AND AGAIN NOTICES AS IN ALL LOWER (STATE) COURT RULING OF BOTH HAINES, 404 U.S. 579 - AND PARTICULARLY OF
SAFFLE (HAMMON V. SAFFLE) (OKLAHOMA SPECIFIC CASE) 348 F.3d-1250: OVER-ARCHING FEDERAL RULE -

"PRO SE LITIGAND FILING MUST BE HELD TO LESS STRINGENT STANDARDS THAN FORMAL PAPERS FILED BY ATTORNEYS...
AND MUST BE LIBERALLY CONSTRUCTED." HAINES, id. (PERCUSSION). HAMMONS id. 7 MORA 293 F.3d 1213 (10th Cir.)

12. **Other appeals** | MORE OVER OKLA APP & OKLA S. Ct - DISMISSED ERRONEOUSLY w/ MOTIONS TO AMEND PENDING.
(THAT'S ON THEIR → NOT ME).
 Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☒ Yes

☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application:

N/A | AS TO EXHAUSTION OF STATE REMEDIES PLEASE NOTE:

(b) Name of the authority, agency, or court:

" | THAT I DID ALSO FILE w/ THE OKLA. PARDON AND

(c) Date of filing:

" | PAROLE BOARD (OPPB) A FORMAL REQUEST TO SET

(d) Docket number, case number, or opinion number:

" | THE ONLY CORRECT OKLA "CS" SENTENCE BEGINS

(e) Result:

" | DATE TO 5/31/2004 ← THE "FULL TERM SENTENCE

(f) Date of result:

" | EXPIRATION DATE OF VACATED USDC/1A.C. 493 CR-50

(g) Issues raised:

" | (SEE EXHIBITS PERMANENT 03 504) → FROM THE NOTICE
10/12/19 - OKLA. STATE COURTS 92 CR-209 BEGINS DATE

IE: AS IT ENDED UP THE OKLA J'S HAS T-W-D SENTENCE BEGINS ONE ON PAGE 01 (EXHIBIT C) FROM THE
DELIVERY OF DEFENDANT TO WARDEN AT LEXINGTON, OKLAHOMA - AND ON PAGE 02 (EXHIBIT 01-B) "CRF 42-209
TO BE SERVED CONSECUTIVELY TO FEDERAL SENTENCE." ← BY SO STATING SENTENCING JUDGE SHOWS
HIS SPECIFIC AWARENESS OF SERVING "A FEDERAL SENTENCE." - PLAINLY AND CLEARLY OKLA'S OWN CASE
LAWYER 540 P 20 1195 (QUOTING TUCKER, 357 F.2d 115) & P 1197: "INVOLVES ONLY AN ADJUSTMENT OF
RECORDS. COMMON SENSE AND FUNDAMENTAL FAIRNESS REQUIRE TIME CREDITED THAT HAS SERVED ON INVALID
SENTENCE - ESPECIALLY WHEN AN APPROPRIATE REMEDY IS SO READILY AVAILABLE." SEE ALSO ESTER 796 F.3d 747
(10th Cir. 2004)
Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: PLAIN ERROR OF STEPHEN COUNTY DISTRICT COURT OKLAHOMA JUDGE WILCO - AS IT TURNED
OUT - OUTRAGEOUSLY IN CONFLICT - SET T-W-D "CS" SENTENCE BEGINS" DATES (EXHIBIT 1-A, B)
← IN ADDITION (TO ALL ASIDE STATE REMEDIES) I ALSO FILED A MOTION TO MODIFY w/ STEPHEN
COUNTY STATE COURT - (JUNE 1, 2018) - WHICH WAS REFUSED TO BE CONSIDERED "BECAUSE D.A. DID NOT FILE AN ANSWER"
← ALL OF WHICH HAS CONTRIBUTED TO THIS CASE OF "LIKELY" FIRST IMPRESSION IN THIS COURT.

(a) Supporting facts (Be brief. Do not cite cases or law.):

No State Judge HAS THE RIGHT - NOR LAWFUL AUTHORITY TO MEREY DISREGARD IT OWN STATE COURT HOLDINGS, NOR FREEDOM DOCTRINE AND CONSTITUTION - INDEED! THE ADAMS COUNTY OKLA. DIST. COURT JUDGE (WHO (AND SIGNED) IN HIS ORDER DENYING (STATE EXEMPTION) HABEAS: "IF THIS WERE NOT A FEDERAL SENTENCE (VACATED) USDC/D. CO. #93 CR 50 BUT AN OKLAHOMA SENTENCE PETITIONER WOULD BE RIGHT! AND ENTITLED TO IMMEDIATE RELEASE!" - OKLAHOMA - VIA ITS JUDICIARY IS ATTEMPTING TO VACATE THE U.S. CONSTITUTION AND RIGHTS B-GUARANTEED BY EXAMINING "STATE SOVEREIGNTY BEYOND REASON! EG: BARRIOS, 432 P.3d 233! OKLA IS' FEDERALISM-ATTACKING IN THIS CASE

(b) Did you present Ground One in all appeals that were available to you? Yes (AND CURRENTLY OTHERS w/ PROSECUT)

☒ Yes☐ No

SEE ALSO ATTACHED PAGES AS TO GROUND ONE

GROUND TWO: VIOLATIONS OF U.S. CONST. 5th Amendment (a) Multiple Punishments (Double Jeopardy And

(b) w/o Due Process of Law. - (i) PROHIBITS SENTENCING JUDGE VIA CONFLICTING JEST (CURRENT PROHIBITS JUDGE FOR DENYING JUNE 2018 MOTION FOR JUDICIAL REVIEW W/O DUE PROCESS (REFUSAL TO ADDRESS IT) "BECAUSE D, AND IS (ii) DID NOT ANSWER ANY REQUESTS ON MULTIPLE PUNISHMENTS REFUSING TO CORRECTLY COMPUTE CS OKLA SENTENCE

(a) Supporting facts (Be brief. Do not cite cases or law.):

WITH THE 13.5 YEARS ALREADY SERVED ONLY - AFTER INFLUENCING PRISON SENTENCE; OKLA DOC RECORDS STAFF - STAFF; (V) STATE OF OKLAHOMA / EMPLOYEES & LEGISLATORS - MAKING A MOCKERY OF BOTH OKLA AND U.S. CONSTITUTIONS - FEIGNING "STATE SOVEREIGNTY" TO DENY MY GUARANTEED CONST. RIGHTS NOT TO BE SUBJECTS TO MULTIPLE PUNISHMENTS AND W/O DUE PROCESS OF LAW.

SEE ALSO "GROUNDS" AND "SUPPORTING FACTS" ON PAGES 8-8 (d) ←

(b) Did you present Ground Two in all appeals that were available to you?

☒ Yes☐ NoGROUND THREE: VIOLATIONS OF (a) 8th Amendment / CRUEL & UNUSUAL PUNISHMENTS & (b) 9th Amend.

FIRST, IF THERE IS A N-Y-O-N-E WHO THINKS THEY CAN REASONABLY ARGUE THAT SERVING 27 YEARS ON A PRISON SENTENCE TO GET 13.5 YEARS CREDIT IS 'NOT' CRUEL & UNUSUAL PUNISHMENT THEN THE WHOLE WORLD WOULD HAVE INSTANTLY SO PUT ME IN AN INSTANT ASYLUM INSIDE OF PRISON - AND IF "CO" NOW

(a) Supporting facts (Be brief. Do not cite cases or law.):

MEANS (IN OKLAHOMA (AND FOREIGN) COURT) THIRTEEN AND A HALF YEARS (161 MONTHS) LATER! I HAVE BEEN IN PRISON FOR 27 - STRAIGHT YEARS NOW - SO I AM NOT EVEN ARGUING ABOUT SOME TIME CREDIT I COULD BE ARGUING FOR - BUT 13 1/2 YEARS IS A LOT OF TIME IN PRISON ANYWHERE ON EARTH!

DEFENDING - AS TO U.S. CONST. IX Amend. - RARE THOUGHT IT MAY BE - RESPONSIBILITIES ALL "ENUMERATED" U.S. CONSTITUTION TO DENY AND DISPARAGE "THE" OTHER RIGHTS BY THE PEOPLE - I AM AN OKLAHOMA CITIZEN NO MATTER WHAT STATE "IN" - AND I AM A U.S. CITIZEN ALSO NO MATTER WHAT STATE I AM IN (EVEN OKLAHOMA).

(b) Did you present Ground Three in all appeals that were available to you?

☒ Yes☐ No

SEE ALSO "GROUNDS / SUPPORTING FACTS" c PAGES 8-8 (d) ←

CUSTARD V ALABAMA / HABEAS CORPUS-224 / USDC - W.DOK /

13. GROUNDED ONE (CONT) (SUPPORTING FACTS (CONT))

(2)(i) REVIEWERS PLEASE NOTE - I NEED TO MAKE THIS POINT AS CLEAR AS POSSIBLE, AS SEEN AS POSSIBLE:
IT IS NOT THE SENTENCE, PER SE, UNDER ATTACK HERE (I WOULD ZATIMED! AS 30-YEARS (THIRTY)
FOR POSSESSION OF < \$10,000.00 PROPERTY! (NOW SINCE NOV. 01, 2018 - 4 (FOUR YEARS MAXIMUM
IN OKLAHOMA) IS WILDLY UNJUST AND OUTRAGEOUS! BUT SUCH IS OKLA AFTER FORMER GOVERNOR OF
A FUDGY (AFEP) SENTENCING THAT HAS LED OKLA TO B2 #01! - IN INCARCERATION OF ITS CITIZENS
PER CAPITA) - BUT THAT IS A FIGHT FOR SOMEONE ELSE - ON SOME OTHER DAY.

THAT IS - I ATTACK / CHALLENGE ONLY THE CALCULATION OF THE OKLA SENTENCE BEGINS DATE,
WHICH PARAPHRASIS "CS" TO "FEDERAL SENTENCE" ← PROHAB G. 92-CR-209-J IS (EXHIBIT 01-B)
IS, AGAIN, PARAPHRASIS "FULL TERM EXPIRATION DATE" IS 5/31/2004 (EXHIBIT 04) IN USM / A.G. 93-CR-50 (EXHIBIT 02)

(2)(ii) OKLAHOMA DOC HOWEVER - ABUSING DISCRETION RIGHT ALONG W/ STEPHENS COUNTY JUDGE!
GOES BY THE RATHER VAGUE "UPON DELIVERY TO THE WARDEN OF LEXINGTON" SENTENCE BEGINS DATE OF
10/18/17! - THAT - REVIEWERS IS A V-E-R-Y SIGNIFICANT DIFFERENCE IN TIME SERVED ON
A "CS" SENTENCE OF 13-YEARS AND 5-MONTHS (161-MONTHS SERVED ON VACATED SENTENCE
THAT OKLA DOC - IN BUSINESS ON PRESENTS - IS ATTEMPTING TO CREDIT ME OUT OF) - MAKING THIS
CASE AND MATTER A V-E-R-Y SIGNIFICANT CASE AND MATTER TO NOT JUST ME BUT ALL WHO READ IT.

(2)(iii) BEFORE OKLA. STATE RESPONDENTS EVEN BEGIN, AT THIS LEVEL, TO SPIT OUT OTHER MONTHS.

"OH NO! HE [CUSTARD] IS GOING TO WANT "BANKED-TIME" TO CREDIT FUTURE CRIMES
WITH IMPUNITY - THAT'S BS - FIRSTLY, I AM NOT SEEKING "BANKED-TIME" RELIEF, AND
SECONDLY I AM NEARLY 70 YEARS OLD - NOW HENCE IT IS NOT LIKELY I COULD EVEN LIVE ANOTHER
13-YEARS & 5-MONTHS (161-MONTHS) TO SOMEHOW "REPURSE" THAT 161 MONTHS I ALREADY SERVED

"CS" TO "THE FEDERAL SENTENCE" ← AS THE STEPHENS COUNTY OKLA. JUDGE PROVES HE HAD IN
MIND! (EXHIBIT 01-B - INFRA) WHEN HE SAID IT IN THE JUDGMENT AND SENTENCE: SURELY
NOT LIKELY TO BE DOING ANY OTHER CRIME AT MY AGE!

— NOW I AM NOT ASKING FOR (A) THAT TIME SERVED AFTER SENTENCE VACATED (EXHIBIT 02)
UNTIL ACTUALLY RESENTENCED; NOR (B) NO FEDERAL GOOD-TIME (YEARS) EARNED ON THAT VACATED
SENTENCE (EXHIBITS 03 & 04) NOR (C) TIME SPENT INCARCERATED IN STEPHENS COUNTY JAIL
GOING TO TRIAL - AND - AWAITING SENTENCING - AND WAITING TRANSPORT BACK TO USP - LEAVENWORTH -
(ALL OF WHICH ARGUABLY, I COULD SEEK →) — ALL I'M ASKING FOR (AS RELIED) IS

— IS THERE IS SUCH A THING AS THE DIFFERENCE BETWEEN WHAT'S RIGHT & WHAT'S WRONG - IN OKLAHOMA
TAKE 2-MINUTES TO RE-COMPUTE THE 13 1/2 YEARS ALREADY SERVED BEING VACATED = IMMEDIATE RELEASE ME.

10th Cir. Law. // UNDER OKLAHOMA PRECEDENT, WHEN A PRISONER SERVING CONSECUTIVE SENTENCES ON SEVERAL CONVICTIONS SUCCEEDS IN HAVING ONE OF THE SENTENCES INVALIDATED - AFTER IT HAS BEEN FULLY OR PARTIALLY SERVED, THE STATE M.U.S.T. CREDIT THE SENTENCES REMAINING WITH THE TIME SERVED UNDER THE VOIDED SENTENCE - ALL THAT IS INVOLVED IS AN ADJUSTMENT OF THE ADMINISTRATIVE RECORDS OF OKLAHOMA PRISON AUTHORITIES - FOSTER 296 F.3d 947 (10th Cir. 2004) - YEAR MY VACATED SENTENCE'S FULL EXPIRATION TERM. 5/31/2004 IS FURTHERMORE THAT THE U.S. CIRCUIT HAS STATED ON THIS - AS WELL AS OKLAHOMA'S OWN CONTROLLING CASES HOLD: 474 U.S. 133, 138, 140. TUCKER V. PERRY, 357 F.3d 115

Common Sense And Fundamental Fairness Require That Under Such Circumstances No State Should Ignore The Period Of Imprisonment Under The Enacted Sentence When The Appropriate Remedy Is So Readily Available.

- 8(b) -

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Grounds / Supporting Facts (Cont)

THE OVER-ARCHING 'FEDERAL QUESTION' THAT ALL THE FACTS & CIRCUMSTANCES GIVING RISE IN THIS CASE & MATTER POINT TO - AND RETURN TO PERHAPS COULD BE POSITED AS:

✓ IS THE STATE OF OKLAHOMA - AND THE FEDERAL GOVERNMENT, AND THE FEDERAL DEPT. OF JUSTICE - SOOOOOO DIVORCED, AND THE ROSEFIDE AMERICAN DOCTRINE OF FEDERALISM TO BE JO SCOFFED AT BY THE OKLAHOMA GOVERNMENT ANOTHER OKLA. DEPT. OF JUSTICE - THAT OKLAHOMA STATE - MERELY FEIGNING (AT WHAT SHOULD BE REASONABLY VIEWED AS LUDICROUS) 'STATE SOVEREIGNTY' 'POLICY' THAT OKLAHOMA STATE CAN BE ALLOWED - UNTESTED AND UNSUPERVISED TO BE MONSTRABLY INDIFFERENT TO THE 13½ YEARS (161 MONTHS) THAT THIS PETITIONER ~~DID~~ ~~OVER~~ SERVED ON A LATER INVALIDATED SENTENCE?

- OR -

IS THIS OLD FELLOW (CUSTARD) U.S. CONSTITUTIONALLY ENTITLED TO: "ALL THAT IS INVOLVED IS AN ADJUSTMENT OF THE PRISON AUTHORITIES ADMINISTRATIVE RECORDS SO THE SERVICE OF HIS C.S. SENTENCE COMMENCES AT THE EARLIER DATE."

- OR EVEN - 'DOES "CONSECUTIVE" MEAN "CONSECUTIVE"? - OR DOES CONSECUTIVE MEAN "WHENEVER SOMEONE'S BODY IS DELIVERED TO LEXINGTON, OKLA.?"

IRREFUTABLY - THIS ARCHAIC FORM OF SENTENCING (IE: DOES A SENTENCE PERTAIN TO TIME? OR A BODY?) DOUBLE-SENTENCING - AND - EXCEEDING CONFLICTING SENTENCING AS IT TURNS OUT - IN THIS CASE & MATTER RESULTED IN AIN ERROR BY THE SEVEN'S COUNTY JUDGE - AND ABUSE OF DISCRETION BY OKLA. PRISON PAROLE AUTHORITIES, BY OKLAHOMA DOC. AUTHORITIES - AS WELL AS DUPE PROCESS OF LAW - AND MULTIPLE PUNISHMENT FOR THE SAME OFFENSE (5TH) w/o DUPE PROCESS OF LAW (5TH) - AND VIOLATIONS OF U.S. CONST. AMENDMENTS IX ~~XXXX~~ AND XIV §01. "Enumerating To Disparage" & "STATE CITIZENS (I, BORN IN GUTHRIE, OKLA.) ARE PROTECTED BY U.S. CONSTITUTION (RESPECTUALLY).

CUSTARD V. ALBAUGH / USDC - WDOK / HABEAS CORPUS - \$2244

Grounds / Supporting Facts (Cont)

To Be Clear - Placing The Way The Lower (State Of Oklahoma) Court Judges And Their Defense / Lawyers (And Okla. Legislature! For That Matter Has Abused Authority) → In Their Responses To Habeas Corpus At State Level Presents In This Case (And Emergency, Respectively) Have Indeed Rarely If Not Violated U.S. Const. Amend IX: "[By] Enumerating Of The (U.S.) Constitution Of Certain Rights In Constitution To Deny And Disparage Others Retained [in] By The State Of Oklahoma - I Am An Oklahoma Citizen - Born In Guthrie - No Matter Where - My "Body" May Be At Any Particular Time!

"CRIME IS CONTAGIOUS. IF THE GOVERNMENT AUTHORITIES BECOME THE LAWBREAKERS, IT BREEDS CONTEMPT FOR THE LAW AND INVITES EVERY ~~PERSON~~ PERSON TO BECOME A LAW UNTO THEMSELVES."

→ LOUIS BRANDIS, OLNSTAD V. UNITED STATES, 277 U.S. 43 (1928)

And That HAS NOT CHANGED IN 90 YEARS - → He Also Stated:

"THE DUTY OF THE COURTS IS TO TRY THE ~~MAN~~ CASE; NOT THE MAN, AND A VERY BAD MAN MAY HAVE A VERY RIGHTeous CASE!"

I Remembered The Above - When Recalling How The Payne County, OKLA Dist. Court Judge (In # CJ-2018-458) In His 01/17/19 DENIAL OF My State Habeas Corpus In This Case Thought It 'Civil And 'Courtly' To LABEL Me "A Multi-Jurisdictional Criminal" In That Order. Whatever - 'Bad' 'MAN' OR NOT I HAVE "A VERY RIGHTeous CASE" Right Here (As The Ever OBSERVANT & ASTUTE US S. Ct Justice BRANDIS Urged All Judges - Almost 100 Yrs Ago, To BOLD (Be On The lookout) For - Vigilantly ... AND UP To His ELBOWS In This Case For 1/2 Dozen Judicial Reasons. — The Facts And Circumstances Giving Rise To THE HEART OF THIS CASE & MATTER AND PRECEDENTIAL VALUE (REASONABLE FEDERALISM DOCTRINE, ETC.) MAKES IT WELL WORTH GETTING INTO TO DECIDE

PLEASE NOTE: So AS NOT TO BE REPETITIVE, NOR BELABOR THE COURT OR OTHER REVIEWERS PETITIONER RESPECTFULLY HEREBY INCORPORATES NOW AND APPLIES ALL THE ABOVE SUPPORTING FACTS - BY THIS REFERENCE - TO ALL OF THE GROUNDS SET FORTH IN THIS PETITION FOR WRIT OF HABEAS CORPUS.

GROUND FOUR: ABUSE OF DISCRETION — From (a) Sentencing Court Judge To (b) Current Sentencing Judge (One Arctic Confusing J's' Sentence Begins Dates) (Once For Refusing To Address Mo. For Okla. Prison Review "Because A Did Not Respond To The Motion"!!)

(a) Supporting facts (Be brief. Do not cite cases or law.):

Also (c) All Resentments & (d) Okla. P & P Board — Addressing To Correcting Circumstances' CS Sentence In Light Of Overwhelming Contradictory Case Law — And Especially In Light Of The Federalism Bonehead Amendment Legal Doctrine. — If A State Like Oklahoma Is Just Allowed To 'Run Wild' w/o Consistent Bridling — One Gets What Oklahoma Has Gotten:

w/ Its ~~Prison~~ Unbridled Out Of Any Reasonable Control — Okla Prison System, #01 N.S. State Incarceration w/ Legislators & Doc Directors Openly Impudent Toward Not 'Just' Its Own Constitution?

(b) Did you present Ground Four in all appeals that were available to you? But The U.S. Constitution By Design.

☒ Yes

☐ No

→ But See Also Pages 8-8(d) Attached Hearings Please ←

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Look Because I Was An Oklahoma Prison Warden & General Prison (Honing) For Leading Me To A Prisoner There w/o A-N-Y Lights For Weeks They (See Exhibit # 06) Custard V. Harding) Sent Me To Cimarron - 100 Prison Gangs Private - For Profiteering Corz-Civic Prison - And Put Me In 'Phases' Intensive Security Unit (Hole) For Years Now - No Law Library (No Photocopying, No Research, No Paper, No Pen, This 25¢ Ink Pen Cost Me \$10 (Bootleg) I Was Equipped With Working Difficulties (No Legal Program For Months Etc) Presenting & Remedy At Court

(Request for Relief)

Fixings Throughout This Case And Matter

15. State exactly what you want the court to do:

ORDER RESPONDENTS TO CORRECTLY CALIBRATE My 'CS' Oklahoma Sentence Now [Over] Surviving To The Irreparable Sentence Full Term Expiration Date 5/31/2007" (Accord: Exhibit 04) Of The Invalidated Prior Sentence (Accord Exhibit 05) — Which w/ The Lowest Earned Good Time Level Will Result In Immediate Release From Oklahoma Custody.

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

May 31, 2019

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 5/31/19

RS/



PROSE

Signature of Petitioner

Signature of Attorney or other authorized person, if any

ROBERT ALLEN CUSTARD
OKLAHOMA P.D. # 194351
3200-South Kings Hwy
Cushing, OK 74023

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CAUSE: CUSTARD V ALBAUGH / USDC — W DOK
 JURISDICTION: HABEAS CORPUS DOCKET/CASE # _____

CERTIFICATE OF SERVICE

I, THE UNDERSIGNED, HEREBY CERTIFY THAT TRUE AND CORRECT COPIES OF THE FOREGOING:

PETITIONERS' PETITION FOR WRIT OF HABEAS CORPUS

— And —

PETITIONERS' EXHIBITS 01 — 0

WERE SENT BY MYSELF VIA FIRST CLASS U.S. MAILS FIRST CLASS POSTAGE ATTACHED TO:

NAME:	<u>① JOSEPH ALBAUGH</u>	<u>MIKE HUNTER</u>
TITLE:	<u>DIRECTOR OKLA DOC — VIA</u>	<u>1 OKLA A.G.</u>
ADDRESS:	<u>GARY ELLIOT / ASS GEN COUN OKLA DOC</u>	<u>Σ 313 N E 21ST</u>
	<u>3400. MLK. AVE</u>	<u>OKC, OK</u>
	<u>OKC, OK 73111</u>	<u>73105</u>

Corrections-Cameron Prison & Prisonery

ADK FLORENCE, EDWARDS

BY PRESENTING SAME, HAND TO HAND, TO A USP MARION, IL. PRISON SECURITY GUARD
 (THERE IS NO PRISONERS MAILBOX; LET ALONE PRISONERS LEGAL MAILBOX AT USP-MARION)
 AUTHORIZED TO, AND TASKED WITH, THE HANDLING OF PRISONERS U.S. MAILS. ADK FLORENCE

THIS 31ST DAY OF May, 2019

/S/

Robert A. Custard
Attorney Pro Se

Cameron Prison
ISU - Check Back